IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

CRL.A.No. 17 of 2003()

ST.97/2000 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA
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APPELLANT: COMPLAINANT

R.RAJAPPAN, DYES, CHEMICALS & JUTE MERCHANT, POOMKAVU JUNCTION, PATHIRAPPALLY, ALAPPUZHA, RESIDING AT JYOTHI NIVAS, POOMKAVU JUNCTION, PATHIRAPPALLY P.O., ALAPPUZHA.

BY ADV. MNS ASSOCIATES
SRI M.T.SURESH KUMAR

RESPONDENTS: ACCUSED & STATE
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1. ABILASH BERLY, PROPRIETOR, PHEN INDUSTRIES, KATTOOR P.O., ALAPPUZHA, RESIDING AT PALLIPPARAMBIL HOUSE, KATTOOR P.O., ALAPPUZHA.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.17 of 2003(A)

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Dated this the 14th day of November, 2007

J U D G M E N T

The appellant is the complainant in S.T.No.97/2000 in the file of the Chief Judicial Magistrate, Alappuzha, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 03/12/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

Sd/-
K.R.UDAYABHANU,
Judge

ms

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P.A.to Judge